

YOU NEED TO KNOW . . .

You can decide, right now, what medical treatments you want or don't want.

You can tell your doctor or loved ones these decisions, so that if you become too sick to tell them they'll know what you want them to do.

You can choose someone you trust to make these decisions for you if you become unable to make them for yourself.

You can write these decisions down on paper, making an advance directive.

For more information, keep on reading!



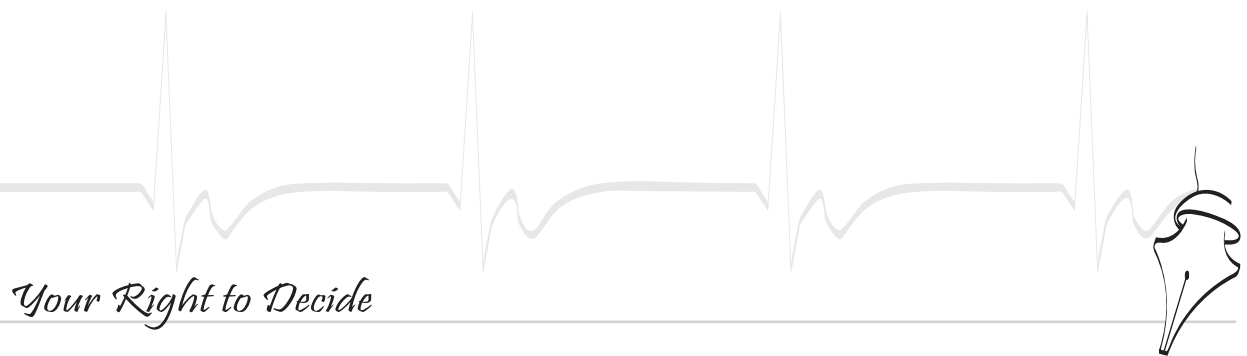
Indiana State
Department of Health



Indiana
State
Medical
Association



Healthcare & Medicine Section
Probate, Trust & Real Property Section



Your Right to Decide

Introduction

You can decide right now – what treatment you want or don't want. You can tell that decision to your doctor and your loved ones so that if you become too sick or unable to tell them, they'll know what you want them to do. Federal law now says you must also be informed of other ways you can control the medical treatment you receive. That is the purpose of this publication.

What happens if I become unable to make my own medical decisions?

Unless you appoint someone, you will not be able to choose who will make your health care decisions if you become unable to consent to or refuse medical treatments. In Indiana, these decisions will be made by your spouse, parent, adult son or daughter, brother or sister, or by a person appointed by the court.

But in Indiana, you can make and write down **your own decisions** about your future medical treatment if you wish. Or you can appoint a person **you choose** to make these decisions for you when you are not able to do so. You can even disqualify someone you don't want to make any health decisions for you. You can do these things by having what is called an *advance directive*.

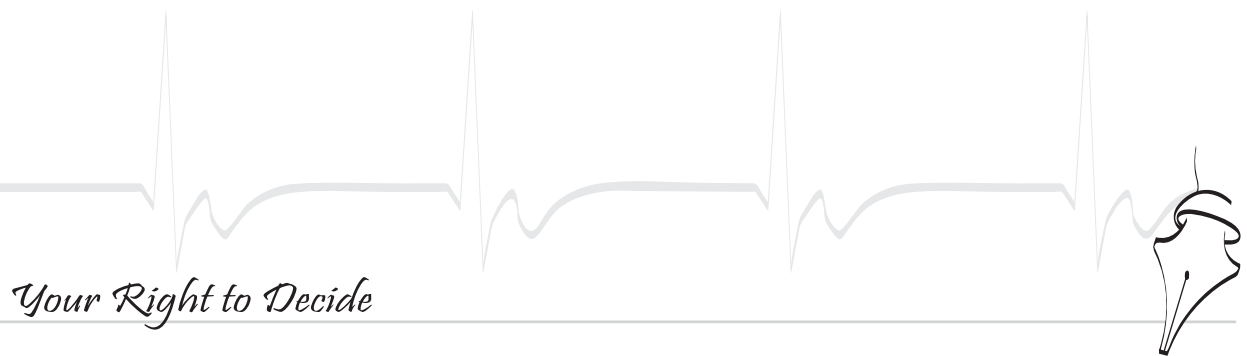
Advance directives are documents you complete to protect your rights to determine your medical treatment and help your family and doctor understand your wishes about your health care.

Your *advance directive* will not take away your right to continue to decide for yourself what you want. This is true even under the most serious medical conditions. Your *advance directive* will speak for you only when you are unable to speak for yourself, or when your doctor determines you are no longer able to understand enough to make your own treatment decisions.

What can I do now to express my wishes in case I later become unable to tell my doctor or my family?

There are three ways you can make your wishes known now, before you get too sick to tell what treatment you want or don't want:

1. You can speak directly to your doctor and your family.
2. You can appoint someone to speak or decide for you.
3. You can write some specific medical instructions.



Your Right to Decide

Do I have to fill out more papers?

No. You can always talk with your doctor and ask that your wishes be written in your medical chart. You can talk with your family. You don't have to write down what you want, but writing it down makes it clear, and sometimes, writing it down is necessary to make it legal. When you are no longer able to speak for yourself, Indiana law pays special attention to what you have written in your *advance directive* about your health care wishes and whom you appointed to carry them out.

Do I have to decide about an *advance directive* right now?

No. You have a **right** to make an *advance directive* if you want to, and no one can stop you from doing so. But no one can force you to make an *advance directive* if you don't want to, and no one can discriminate against you if you don't sign one.

Which advance directive should I use?

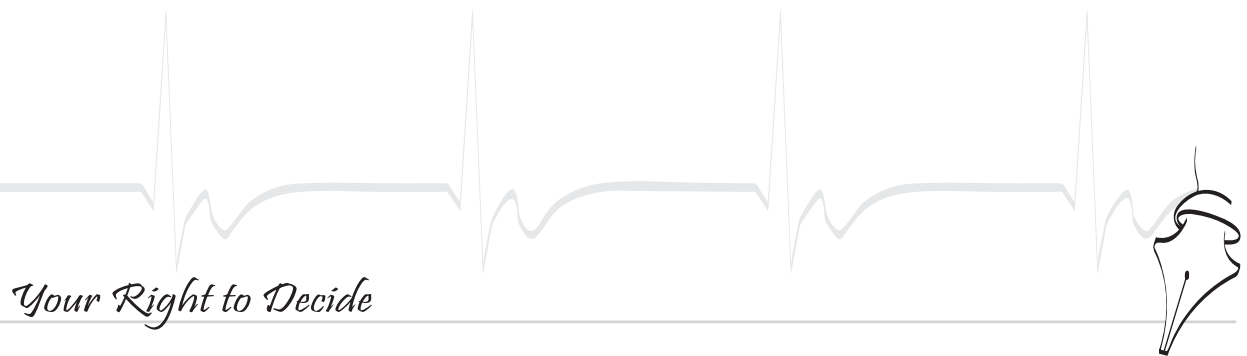
That depends on what you want to do. If you want to put your wishes in writing, there are four Indiana laws that are important – the Health Care Consent Act, the Living Will Act, the Powers of Attorney Act and the Uniform Anatomical Gift Act. These laws may be used singly or in combination with each other.

These laws are complicated, however, and it is always wise to talk to a lawyer if you have specific questions about your legal choices.

What is the Indiana Health Care Consent Act?

The Indiana Health Care Consent Act is found in the Indiana Code at IC 16-36-1. This law lets you appoint someone to say yes or no to your medical treatments when you are no longer able. This person is called your *health care representative*, and he or she may consent to, or refuse, medical treatment for you in certain circumstances that you can spell out. To appoint a *health care representative*, you must put it in writing, sign it and have it witnessed by another adult.

Because these are serious decisions, your health care representative must make them in your best interest. In Indiana, courts have already made it clear that decisions made for you by your *health care representative* should be honored. These decisions can determine which medical treatments you will or will not receive when you are unable to express your wishes. If you want, in certain circumstances and in consultation with your doctor, your *health care representative* may even decide whether or not food and water should be artificially provided as part of your medical treatment.



What is the Indiana Living Will Act?

The Indiana Living Will Act is found in the Indiana Code at IC 16-36-4. This law lets you write one of two kinds of legal documents for use when you have a terminal condition and are unable to give medical instructions. The first, the *Living Will Declaration*, can be used if you want to tell your doctor and family that certain life-prolonging medical treatments should **not** be used, so that you can be allowed to die naturally from your terminal condition. The second of these documents, the *Life-Prolonging Procedures Declaration*, can be used if you want all possible life-prolonging medical treatments to extend your life.

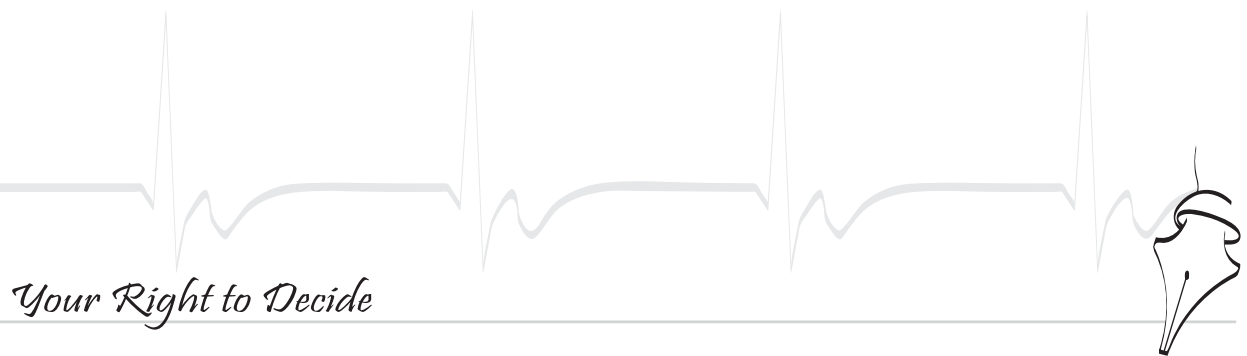
For either of these documents to be effective, there must be two adult witnesses, and the document must be in writing and signed by you or someone you direct to sign in your presence. Either a *Living Will Declaration* or a *Life-Prolonging Procedures Declaration* can be canceled orally, or in writing, or by canceling or destroying the declaration yourself. The cancellation is effective, however, only when the doctor or other health care provider treating you is informed.

What is the Indiana Powers of Attorney Act?

The Indiana Powers of Attorney Act is found in the Indiana Code at IC 30-5. This law spells out how you can give someone the power to act for you in a

number of situations, including health care. You do this by giving this person your *power of attorney* to do certain things you want this person to do. This person should be someone you trust. He or she does **not** have to be an attorney, even though the legal term for this appointed person is *attorney in fact*. The person you name as your *attorney in fact* is given the power to act for you in only the ways that you specify. Your *power of attorney* must be in writing and signed in the presence of a notary public. It must spell out who you want as your *attorney in fact*, exactly what powers you want to give to the person who will be your *attorney in fact*, and what powers you don't want to give. Since your *attorney in fact* is not required to act for you if he or she doesn't want to, you may wish to consult with this person before making the appointment.

If you wish, your *power of attorney* document may appoint the person of your choice to **consent to or refuse health care** for you. This can be done by making this person your *health care representative* under the *Health Care Consent Act*, or by referring to the *Living Will Act* in your *power of attorney* document. You can also let this person have **general power over your health care**. This would let him or her sign contracts for you, admit or release you from hospitals or other places, look at or get copies of your medical records, and do a number of other things in your name. You can cancel a *power of attorney* at any time, but only by signing a written cancellation and having this actually delivered to your *attorney in fact*.



What is the Anatomical Gift Act?

The Uniform Anatomical Gift Act is found in the Indiana Code at IC 29-2-16. This law spells out the procedure for you to make (or refuse to make) a gift of all or a part of your body for purposes of research, advancement of science or transplantation. A gift of all or part of your body may be made in your will or in another document such as an Organ/Tissue Donor Card, signed by you, the donor. An individual under the age of 18 may make an anatomical gift with the consent of his/her parent or guardian.

If you have made an anatomical gift, then members of your family cannot prevent your gift from being made. If you are silent during your lifetime with respect to organ donation, a spouse, adult son or daughter, or parent can make a gift of all or part of your body. The best way to ensure that your wishes are carried out is to tell your family if you do or do not wish to be an organ and tissue donor. If you wish to be such a donor, you should sign and carry a donor card, designate “organ donor” on your driver’s license and record your wishes in legal documents.

Are there forms to help me write these documents?

Although Indiana law provides limited forms for some of the purposes listed above, these may not be sufficient to accomplish everything you might

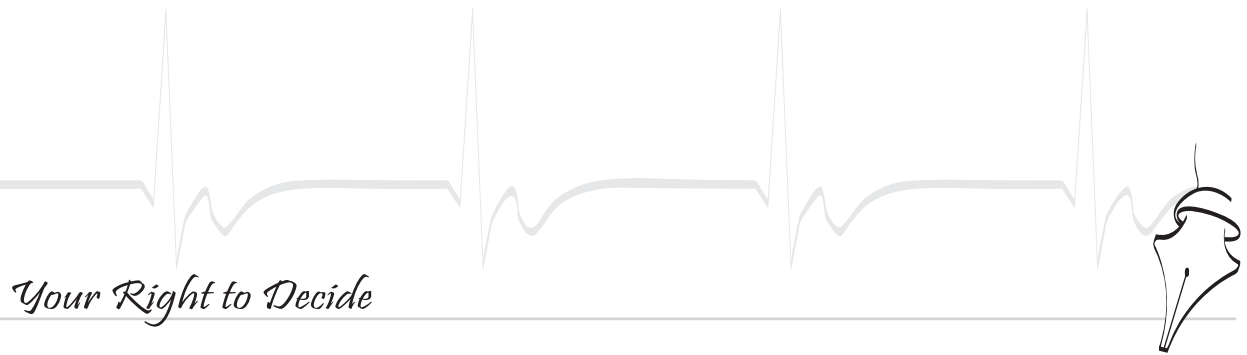
want. Although these laws do not specifically require an attorney, you may wish to consult with one before you try to write one of the more complicated legal documents described above.

Can I change my mind after I write an advance directive?

Yes. As mentioned earlier, you can change your mind about any of these types of appointments, or about the living will. However, you need to make various people aware that you’ve changed your mind – like your doctor, your family or the person you’ve appointed *attorney in fact* – and you might have to revoke your decision in writing. Remember, however, that you can always speak directly to your doctor. But be sure to state your wishes clearly and be sure they are understood. Ask your doctor to write your wishes in your medical chart.

What if I make an advance directive in Indiana and I am hospitalized in a different state or vice versa?

The law on honoring an *advance directive* in or from another state is unclear. Because an *advance directive* tells your wishes regarding medical care, however, it may be honored wherever you are, if it is made known. If you spend a great deal of time in more than one state, you may wish to consider having your *advance directive* meet the laws of those states, as much as possible.



What should I do with my *advance directive* if I choose to have one?

Make sure that someone, such as your lawyer or a family member, knows you have an *advance directive* and where it is located. You should give a copy of your *power of attorney* document to the person you have appointed to serve as your *attorney in fact*. You may also decide to ask your doctor or other health care provider to make your advance directive a part of your permanent medical

record. Take a copy of your advance directive with you when you enter a hospital or nursing home. Give it to your home health or hospice care provider.

Another idea would be to keep a second copy of the *advance directive* in a safe place where it can be found easily. And you might keep in your purse or wallet a small card that states you have an *advance directive* and where it is located, or who your *attorney in fact* is, if you have named one.

Final Things to Remember

You have the right to control what medical treatment you will receive.

Even without a lawyer or a form, you can always tell your doctor and your family what medical treatments you want or don't want.

No one can discriminate against you for signing, or not signing, an *advance directive*.

Using an *advance directive* is, however, a way to control your future medical treatment.